

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

BENNY SARMIENTO

v.

ROBERT ARMOUR, ET AL.

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C.A. NO. C-05-008

**ORDER DENYING PLAINTIFF'S MOTION TO
PROCEED WITHOUT PAYING COSTS FOR TRANSCRIPTS**

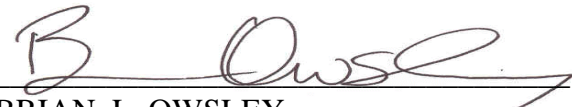
This is a civil rights action filed by a state prisoner pursuant to 42 U.S.C. § 1983. Pending is plaintiff's motion to proceed without paying costs for transcripts. (D.E. 105). He requests transcripts from his August 2006 jury trial.

Plaintiff asserts that he ought not be required to pay for the requested transcripts due to his indigent status. However, he has not filed a motion to proceed in forma pauperis on appeal. Moreover, "[f]ees for transcripts furnished in ... proceedings to persons permitted to appeal in forma pauperis shall ... be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question)." 28 U.S.C. § 753(f). The Fifth Circuit has explained that "[i]n order to succeed on a motion for production of transcripts at government expense, a party must also show why the transcripts are necessary for proper disposition of his appeal." Norton v. Dimanzana, 122 F.3d 286, 293 (5th Cir. 1997) (citing Harvey v. Andrist, 754 F.2d 569, 571 (5th Cir. 1985)).

Plaintiff attended the trial and the docket reflects what occurred during each day of trial. He has failed to specify how the transcripts are necessary to effectively argue his appeal. He has not addressed why he is unable to argue his appeal based on his personal knowledge of the jury trial. He has not stated the issues that he intends to raise on appeal.

Accordingly, plaintiff's motion to proceed without paying costs for transcripts, (D.E. 105), is DENIED.

ORDERED this 29th day of August 2006.



BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE